

SPECIAL USE PERMIT

FILE NO.	SP21-032
LOCATION OF PROPERTY	Northeast corner of Ridder Park Drive and East Brokaw Road (1290 Ridder Park Drive)
ZONING DISTRICT	IP Industrial Park
GENERAL PLAN DESIGNATION	Industrial Park
PROPOSED USE	Special Use Permit to allow the removal of eight non-ordinance-size trees for the conversion of an approximately 5,645 square feet of ground floor office space to a daycare for up to 44 children with an associated approximately 2,680-square foot outdoor playground at an existing office building on an approximately 9.0-gross acre site.
ENVIRONMENTAL STATUS	Exempt per CEQA Guidelines 15303(c) for New Construction or Conversion of Small Structures.
OWNER/APPLICANT	Stephanie Gomez Santa Clara County Office of Education 1290 Ridder Park Drive, MC 251 San Jose, CA 95131

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Project Description.** The project consists of a Special Use Permit to allow the removal of eight non-ordinance-size trees conversion of an approximately 5,645 square feet of ground floor office space to a daycare for up to 44 children with an associated approximately 2,680-square foot outdoor playground at an existing office building on an approximately 9.0-gross acre site.

The daycare would serve approximately 44 children between the ages of 0-5 years old. The daycare would include three classroom and up to 17 staff. The daycare would operate from 6:30 am to 6:30 pm Monday through Friday. The program would be managed by the Santa Clara County Office of Education Early Learning Services Department (SCCOE ELS). The children would largely be composed of families of SCCOE employees working at the existing office building.

2. **Site Description and Surrounding Uses.** The subject site is located on the northeast corner of Ridder Park Drive and East Brokaw Road. The site is developed with three, three-story office buildings. The daycare center would be located on the north side of the ground floor of the northernmost, approximately 79,950-square foot office building. The site is surrounded by railroad tracks and a commercial shopping center to the east, and a mix of industrial park offices to the south, west, and north. The project site is accessible from two driveways along Ridder Park Drive and one driveway along East Brokaw Road.
3. **General Plan Conformance.** The subject site has a designation of Industrial Park on the adopted Envision San José 2040 General Plan Land Use/Transportation Diagram. This designation is an industrial designation intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing and offices. This designation is differentiated from the Light Industrial and Heavy Industrial designations in that Industrial Park uses are limited to those for which the functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Areas identified exclusively for Industrial Park uses may contain a very limited number of supportive and compatible commercial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. These commercial uses should typically be located within a larger industrial building to protect the character of the area and maintain land use compatibility. The project consists of the addition of a daycare use, which would be an ancillary supporting use to the existing office/industrial park use on site.

The proposed project is consistent with the following General Plan policies:

Land Use and Employment Policy IE-1.2: As part of the intensification of commercial, Village, Industrial Park and Employment Center job Growth Areas, create complete, mixed-employment areas that include business support uses, public and private amenities, child care, restaurants and retail goods and services that serve employees of these businesses and nearby businesses.

Land Use Policy LU-1.5: Encourage developers of large commercial and industrial projects to identify and appropriately address the potential need generated by these projects for child care facilities or services. The provision of on-site child care may be considered for a single tenant building in industrial areas primarily for use by employees of the industrial facility. Do not locate off-site, freestanding child care facilities within industrial areas, except for those areas that have been designated for such uses.

Land Use Policy LU-6.8: Reserve industrial areas for industrial and compatible support uses, while recognizing that industrial uses come in a variety of types and forms. Allow nonindustrial uses which are only incidental to and totally compatible with primary industrial uses in exclusively industrial areas. Consider allowing supportive, non-industrial activities, such as retail sales of materials manufactured or stored on site.

Analysis: The project would allow for the conversion of a portion of the ground floor of an existing office building to a day care center. The existing industrial park use would be maintained. The daycare center would be an ancillary support use for the larger office building as it would serve the children of parents already working in the building.

4. **Zoning Code Compliance.** The subject site is located in the IP Industrial Park Zoning District. Pursuant to Section 20.50.100 of the Zoning Code, a daycare requires the issuance of a Special Use Permit in the IP Zoning District. The project conforms to the following requirements of the IP Zoning District.

Setbacks and Height – Table 20-120

Development Standard	Required	Proposed
Front Setback (Building)	15 feet	57 feet
Front Setback (Parking for Passenger Vehicles)	25 feet	47 feet
Front Setback (Parking for Trucks and Buses)	40 feet	420 feet
Front Setback (Loading Docks)	60 feet	102 feet
Side Setback	0 feet	220 feet (north), 57 feet (south)
Rear Setback	0 feet	70 feet
Maximum Height	50 feet	42 feet

Analysis: As shown on the table above, and the project site plan, the project conforms with all setback and height requirements of the IP Industrial Park Zoning District pursuant to Section 20.50.200 of the Zoning Code.

Parking – Table 20-190

Use	Ratio	Required
Office	1 space per 250 square feet	590 spaces
Warehouse	5 spaces for warehouses with a total gross floor area between 5,000 square feet and 25,000 square feet	5 spaces
Daycare	1 per 6 children, up to 5 spaces and thereafter 1 per 10 children	7 spaces
	Total Required	602
	Total Provided	647

Analysis: Based on a parking analysis of all existing and proposed uses on site, the project is required to provide a total of 602 vehicle parking spaces. A total of 647 spaces are provided in conformance with the requirements of Chapter 20.90 of the Zoning Code. Additionally, the project is required to provide a minimum of two bicycle parking spaces. Two bicycle parking spaces are provided on a bicycle rack near the primary entrance to the daycare center.

Noise

Pursuant to Section 20.50.300 of the Zoning Code, the maximum noise level for commercial uses adjacent to a commercial property is 60 decibels. A noise study, prepared by Edward L. Pack and Associates, date January 20, 2022, was prepared for the proposed project. Noise impacts from the project were evaluated against the noise limits established by the San Jose Municipal Zoning Code. The nearest use is an office building located approximately 285 feet to the west, across Ridder Park Drive. The nearest residential use is located approximately 1,150 feet to the west and is separated by railroad tracks, a shopping center, and a six-lane road. The noise study found that the operational noise of the playground would not exceed 52 decibels at the center line of Ridder Park Drive. To further attenuate any noise emanating from the playground, the project would include the construction of a seven-foot-high masonry wall at the perimeter of the playground area. Therefore, the project would be in conformance with the noise requirements for a commercial use adjacent to other commercial uses.

Tree Removals

The project includes the removal of eight non-ordinance-size Shamel ash trees. All eight trees are non-native and between 19 and 38 inches in circumference. Therefore, the removal of the eight trees requires the replanting planting of 16 (15-gallon) or 8 (24-inch box) trees on site. The project includes the planting of 8 (24-inch box) Shamel ash trees.

5. **City Council Policy 6-14: Guidelines for Child Care.** The intent of this policy is to: (1) create safe environments for all children in child care facilities in the City, (2) Ensure that child care facilities are good neighbors, and are compatible with their surroundings, and (3) Provide guidance to child care providers on how to successfully design and operate facilities with greater certainty. While the Zoning Ordinance refers to the use as a day care center, the City Council Policy refers to day care centers as “Child Care Centers.”

The proposed day care center is consistent with the following relevant criteria of the policy:

- a. Facility Location
 - i. New Child Care Centers are encouraged in non-residential areas to provide care for children near employment centers, provided that the surrounding business or industrial activities would not adversely impact the Center.
 - ii. New Child Care Centers are encouraged in residential areas on Major Collectors and Arterial streets, as designated on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
 - iii. New Child Care Centers are encouraged in the transitional or mixed-use areas at the margins of homogenous neighborhoods as long as the health and safety of the children is protected, and compatibility with proximate uses assured.

Analysis: The project is located within an office building on the corner of East Brokaw Road and Ridder Park Drive. Brokaw Road is designated as a City Connector Street on the Envision San José 2040 General Plan Transportation Network Diagram. The subject site surrounded by office and industrial park uses.

- b. Traffic and Circulation a. Access to new Child Care Centers to pick-up and drop-off children should not negatively impact off-site traffic flow by causing on-street stacking or stopping.

- i. On-site circulation should be designed to preclude vehicles from backing onto streets designated as Major Collectors and Arterials on the City's adopted San José 2040 General Plan Land Use/Transportation Diagram.
- ii. New Child Care Centers should provide adequate vehicular driveways and sufficient turn-around areas for adequate on-site circulation.

Analysis: The daycare would be located on the ground floor of an existing office building, within a larger industrial park complex. The project includes adequate space in the front of the daycare center for pick-up and drop-off operations. Additionally, it is expected that the majority of the children would be children of those employees already working in the office building. Therefore, the need for short term parking would not be as significant as a stand-alone day care use.

- c. Parking and Drop-Off a. Parking areas should not be located in the front or side setback areas.

- i. Child Care Centers should provide adequate short-term parking to accommodate child drop-off areas, which are not located in the public right-of-way.

Analysis: As previously mentioned, it is expected that the majority of the children would be children of those employees already working in the office building. Therefore, the need for short term parking would not be as significant as a stand-alone day care use. The project does include adequate parking, with 45 more vehicle parking spaces provided than required.

- d. Site Design

- i. New Child Care Centers should be on sites that are able to adequately accommodate the physical requirements of on-site circulation, parking, play areas and setbacks. Our experience has found that this is normally at least a 10,000 square foot parcel or site.
- ii. New Child Care Centers should install a minimum 6-foot high fence around the active outdoor play areas for child security. A wall may be required to minimize potential impacts from outdoor play and parking areas to surrounding residential uses.
- iii. New Child Care Centers proximate to residential neighborhoods should locate play areas away from adjacent residences as much as possible.
- iv. A minimum of five feet of perimeter landscaping should be provided to buffer the active play areas, and 10 feet for parking or service areas of Child Care Centers, from any adjacent residential properties.
- v. Proposed building additions and any other exterior remodeling should be architecturally compatible with existing structures and all new construction, additions and remodeling should be consistent the surrounding neighborhood character.
- vi. Proposed buildings should be compatible with the surrounding area, particularly with respect to height and mass.
- vii. All roof equipment, trash enclosures, and mechanical equipment should be screened from view from public streets and located to minimize the potential for nuisances to any adjacent residences.

Analysis: The total area of the subject site is approximately 9.0-gross acres, which is larger than the expected parcel size. The site would accommodate all the physical requirements for on-site circulation, parking, and play areas. The project has incorporated an approximately seven-foot-high solid noise barrier at the perimeter of the playground. Additionally, the project incorporates a minimum five-foot-wide landscape area at the perimeter of the playground. The perimeter of the site would be landscaped with a mix of trees, shrubs, and groundcover.

e. Operation

- i. To minimize adverse impacts to adjacent residences, Child Care Centers adjacent to residential neighborhoods should operate only from 6:00 a.m. to 7:00 p.m., Monday through Friday.
- ii. New Child Care Centers are required to meet the noise standards of the Zoning Ordinance and should meet the City's noise standards as specified in the adopted San José 2020 General Plan. A noise study may be required for Child Care Centers proximate to residential neighborhoods to evaluate noise levels and identify appropriate mitigation.

Analysis: The hours of operation for the Child Care Center are Monday through Friday 6:30 AM to 6:30 PM. As described above, the project conforms with the noise standards based on the Zoning Code requirements above. Additionally, the nearest use is an office building located approximately 285 feet to the west, across Ridder Park Drive. The nearest residential use is located approximately 1,150 feet to the west and is separated by railroad tracks, a shopping center, and a six-lane road. Given the large separation between the project site and any nearby buildings, the project would not negatively impact any adjacent uses.

6. **Environmental Review.** The project is Exempt per CEQA Guidelines Section 15303(c) for New Construction or Conversion of Small Structures. Class 3 consists of the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to, a store, motel, office, restaurant, or other similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use, where all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive. There would be no changes to the square footage of the building. The project would allow for the conversion of existing ground floor office space to a day care and would include the construction of an associated approximately 2,680-square foot outdoor playground. The playground would be incidental and appurtenant to the larger day care use. The subject site is located in an urbanized area and is served by all necessary public and private utilities. As discussed above, the IP Zoning District permits day care uses with the issuance of a Special Use Permit. The project would not involve the use of any hazardous substances and is not in an environmentally sensitive area. Therefore, the project is exempt per CEQA Guidelines Section 15303(c).

7. **Special Use Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Special Use Permit, which findings are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.

- a. The Special Use Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and Area Development Policies; and

Analysis: As discussed above, this Special Use Permit is consistent with the General Plan land use designation of Industrial Park. The project is consistent with General Plan policies regarding land use and employment for childcare uses. The project would allow for the conversion of a portion of the ground floor of an existing office building to a day care center. The existing industrial park use would be maintained. The daycare center would be an ancillary support use for the larger office building as it would serve the children of parents already working in the building.

- b. The Special Use Permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: As stated above, there is no change to the square footage of the existing building. The existing building conforms with all applicable development standards for a property in the IP Industrial Park Zoning District. The project also conforms with all applicable parking requirements, noise standards, and tree removal mitigation. The proposed day care is incidental to the existing office use and is not located in its own building as a standalone use.

- c. The Special Use Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: As discussed above, the project is consistent with City Council Policy 6-14: Guidelines for Child Care. Additionally, the project is consistent with City Council Policy 6-30: Public Outreach. An on-site sign was installed on the project frontage and the hearing was noticed at a radius of 500 feet. Staff has been available to answer any questions.

- d. The proposed use at the location requested will not:

- i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
- ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
- iii. Be detrimental to public health, safety, or general welfare; and

Analysis: The project would include the conversion of a portion of the ground floor of an existing office building to a daycare and the construction of an associated outdoor playground area. The project would provide much needed day care service to parents working on site and in the surrounding area. As discussed above, the project would conform with the noise requirements of the Zoning Code, and would include the installation of a seven-foot-high noise attenuation wall. Therefore, the project will not affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area, impair the utility or value of property or other persons located in the vicinity of the site or be detrimental to the public health, safety, or general welfare.

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and

Analysis: The existing site is adequate in size to accommodate all necessary buildings, parking facilities, and landscaping on-site. As previously discussed, there are no changes to the existing building footprint. Bicycle parking would be added to the area nearest to the playground gate.

- f. The proposed site is adequately served:

- i. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
- ii. By other public or private service facilities as are required.

Analysis: The subject property is served by Ridder Park Drive and East Brokaw Road, and all necessary public and private utilities and services. The day care use would not create additional traffic on site as it would serve the children of parents who already work at the offices onsite.

- g. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: As previously discussed, the project is exempt pursuant to CEQA Section 15303 for New Construction or Conversion of Small Structures. There would be no changes to the existing office footprint. The project would include the construction of an approximately 2,680-square foot outdoor playground with associated landscaping and play equipment. All construction would be temporary and would occur between 7:00 am to 7:00 pm Monday through Friday. Therefore, the project would not result in significant noise, vibration, drainage, erosion, stormwater runoff or odor impacts.

8. Site Development Permit Findings. Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Site Development Permit.

- a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and Area Development Policies.

Analysis: As previously discussed, the project consists of the construction of an approximately 2,680-square foot outdoor playground consistent with the General Plan Land Use Designation of Industrial Park. The construction of the playground would support the day care use, which is consistent with the policies for providing childcare near places of employment.

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project.

Analysis: As discussed above, the project conforms to the development regulations for projects located in the IP Zoning District. The project also conforms with all applicable parking requirements, noise standards, and tree removal mitigation.

- c. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

Analysis: As discussed above, the project is consistent with City Council Policy 6-14: Guidelines for Child Care. The site would accommodate all the physical requirements for on-site circulation, parking, and play areas. The project has incorporated an approximately seven-foot-high solid noise barrier at the perimeter of the playground. Additionally, the project incorporates a minimum five-foot-wide landscape area at the perimeter of the playground. The perimeter of the site would be landscaped with a mix of trees, shrubs, and groundcover. The project is consistent with City Council Policy 6-30 Public Outreach Policy for Land Use and Development Proposals. An on-site sign has been posted at the project frontage since May 20, 2020. The project was duly noticed to surrounding properties at a 500-foot radius.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The playground would be located on the north side of the existing office building in an existing landscaped area. The playground would be oriented away from and screened from the primary vehicular circulation areas. The project includes the installation of a seven-foot-high masonry wall at the perimeter of the playground. As discussed, there would be no change to the square footage, location, or orientation of the existing office building on-site.

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: As previously stated, there would be no change to the existing orientation, location, or elevation of the existing building on site. The nearest use is an office building located approximately 285 feet to the west, across Ridder Park Drive. The playground area would be fully screened from view of the adjacent office building by the proposed masonry wall and existing landscaping.

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: As previously discussed, the project is exempt pursuant to CEQA Section 15303 for New Construction or Conversion of Small Structures. There would be no changes to the existing office footprint. The project would include the construction of an approximately 2,680-square foot outdoor playground with associated landscaping and play equipment. All construction would be temporary and would occur between 7:00 am to 7:00 pm Monday through Friday. Therefore, the project would not result in significant noise, vibration, drainage, erosion, stormwater runoff or odor impacts.

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The project includes significant existing landscaping at the front of the building and in the parking area. Additional landscaping would be planted, around the perimeter of the playground. The project also includes the installation of a seven-foot-high masonry wall at the perimeter of the playground.

- h. Traffic access, pedestrian access and parking are adequate.

Analysis: The project site is accessible from two driveways along Ridder Park Drive and one driveway along East Brokaw Road. Pedestrians can also access the site via sidewalks from Ridder Park Drive and East Brokaw Road. Pedestrian accessible pathways would also be added from the parking area to the playground area. As discussed above, the project provides the required vehicle and bicycle parking.

- 9. **Tree Removal Permit Findings.** Section 13.32.100 of the San José Municipal Code specifies the required findings for live tree removals.

- a. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.
- b. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question; or

Analysis: The project includes the removal of eight non-ordinance-size Shamel ash trees. All trees to be removed are located within the footprint of the playground area to be constructed. All eight trees are non-native and between 19 and 38 inches in circumference. Therefore, the removal of the eight trees requires the replanting planting of 16 (15-gallon) or 8 (24-inch box) trees on site. The project includes the planting of 8 (24-inch box) Shamel ash trees

In accordance with the findings set forth above, a Special Use Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement of the applicant to be bound by, to comply with, and do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such permit.
2. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
4. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend buildings, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
5. **Use Authorization.** Subject to all conditions herein, this Permit allows removal of eight non-ordinance-size trees conversion of an approximately 5,645 square feet of ground floor office space to a daycare for up to 44 children with an associated approximately 2,680-square foot outdoor playground at an existing office building on an approximately 9.0-gross acre site.
6. **Hours of Operation.** The hours of operation for the day care use are from 6:30 am to 6:30 pm, Monday through Friday.
7. **Conformance with Plans.** The development of the site shall conform to the approved Special Use Permit plans entitled, "SCCOE Early Learning Center Special Use Permit" dated January 10, 2022, on file with the Department of Planning Building and Code Enforcement.
8. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
9. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance.
10. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application has been filed.
11. **Tree Protection Standards.** The applicant shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval, and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the applicant to prevent disturbances

during the full length of the construction period that could potentially disrupt the habitat or trees.

12. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code for use of reclaimed water and shall include an irrigation system designed to allow for the current and future use of reclaimed water for all landscaping.
13. **Noise Control.** Sound shall be contained within the buildings and the buildings shall be adequately insulated to prevent excessive sound from emanating outside. Adequate HVAC (air conditioning) shall be provided to allow all doors and windows on the subject site to remain closed during the operation and activities of the site. Maximum noise levels emanating from the interior any of the facilities shall not exceed 60 decibels (dBA) at non-residential property lines.
14. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
15. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
16. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
17. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
18. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris.
19. **Anti-Graffiti.** During construction, the applicant shall remove all graffiti from buildings, walls and other surfaces within 48 hours of defacement. Upon project completion and/or transfer of ownership, the property owner, and/or Maintenance District shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
20. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
21. **Window Glazing.** Unless otherwise indicated on the Approved Plan, all windows shall consist of a transparent glass.
22. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
23. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
24. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, SP21-032 shall be printed on all construction plans submitted to the Building Division.

- b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Other.* Such other requirements as may be specified by the Chief Building Official.
25. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2019 California Fire Code, or as may be amended or updated by the City.
26. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.
- a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - b. **Transportation:** This project is subject to the City's North San Jose Area Development Policy (ADP), adopted June 2005. An area wide traffic impact analysis was prepared as part of the ADP. Traffic impacts were identified and resulted in an area wide traffic impact fees (TIF). The 2022 fee is \$17.55 per s.f. of Industrial or Office/R&D buildings and subject to an annual escalation of 3.3% on July 1st and the next fee escalation will occur on July 1st, 2023. This project proposes no new square footage as a result of the interior conversion and is not subject to the TIF. See separate traffic memo dated 04/26/2022.
 - i. Pay the US-101/Oakland/Mabury Transportation Development Policy (TDP) traffic impact fee for one (1) trip prior to issuance of Building Permits. The 2022 TIF is \$43,696 for each project peak hour trip that travels through either the US101/Oakland or US-101/Mabury Interchanges. This fee is subject to an annual escalation on January 1st per the Engineering News-Record Construction Cost Index for San Francisco.
 - c. **Grading/Geology:**
 - i. A grading permit or grading exemption may be required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1

- or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
- iii. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction may be required for review and approval by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
 - d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures and source controls to minimize stormwater pollutant discharges.
 - e. **Stormwater Peak Flow Control Measures:** The project is located in a non Hydromodification Management area and is not required to comply with the City's Post Construction Hydromodification Management Policy (Council Policy 8-14).
 - f. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
 - g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - h. **Street Improvements:**
 - i. Existing southernly driveway along Ridder Park Drive shall be removed and replaced per City Standard Detail R-6.
 - ii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - i. **Electrical:** Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
27. **Revocation, Suspension, Modification.** This Special Use Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Special Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. a violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **25th of May, 2022.**

CHRISTOPHER BURTON, Director
Planning, Building, and Code Enforcement

Deputy
Robert Manford